

CASE NO 18-DCR-0152

District Clerk  
Chambers County, Texas

STATE OF TEXAS

§ IN THE COUNTY OF  
§  
§ 344TH JUDICIAL DISTRICT COURT

vs.

ZENA COLLINS STEPHENS

§ CHAMBERS COUNTY, TEXAS

*Stephania Manning*  
Deputy

**MOTION FOR DISCOVERY OF THE ARREST AND CONVICTION RECORDS OF  
STATE'S WITNESSES**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, the defendant, **ZENA COLLINS STEPHENS**, Defendant, by and through counsel, and moves this Court to order the State to disclose the arrest and conviction records of each witness it intends to call, and for good cause shows the following:

1. ZENA COLLINS STEPHENS moves that this Court order the State to examine the records of its local law enforcement agencies, the Texas Crime Information Center, and the National Crime Information Center concerning the arrest and conviction records of each of its witnesses.

2. ZENA COLLINS STEPHENS requests that this Court order the State to disclose the arrest and conviction records of its witnesses, which can be used for cross-examination and impeachment under Rule 609 of the Texas Rules of Evidence; the Sixth and Fourteenth Amendments to the United States Constitution; and, Article I, § 10 of the Texas Constitution, including, but not limited to the following:

- A. final felony convictions;
- B. felony convictions for which probation or community supervision has not been satisfactorily completed;
- C. final misdemeanor convictions involving moral turpitude;
- D. misdemeanor convictions involving moral turpitude for which probation or community supervision has not been successfully completed;
- E. offenses pending between the date of this offense and trial, which might have a bearing on the witness's motive to testify, including juvenile cases, felonies and

MOTION FOR DISCOVERY OF CRIMINAL RECORDS OF STATE'S WITNESSES

misdemeanor cases, convictions, community supervision, probations or deferred adjudications. See Davis v. Alaska, 415 U.S. 308 (1974).

3. A review of the State's file reveals that the State has checked with various agencies, including local law enforcement agencies, the Texas Crime Information Center and the National Crime Information Center, to determine the extent of defendant's arrest and conviction record. This demonstrates the State's access to arrest and conviction record evidence, and establishes that this evidence is in the possession, custody and control of the State.

4. If witnesses who testify for the State have arrest or conviction records, evidence of those records might be admissible for impeachment. The evidence is material for this reason. Denial of access to this material evidence will deny ZENA COLLINS STEPHENS's right to cross-examine and confront witnesses, in violation of the Sixth and Fourteenth Amendments of the United States Constitution, Article I, § 10 of the Texas Constitution, and Rule 609 of the Texas Rules of Evidence.

5. The Supreme Court has recognized that impeachment evidence can be exculpatory, and thus discoverable under the Due Process Clause of the Fourteenth Amendment. See Bagley v. United States, 473 U.S. 667, 676 (1985).

6. The requested arrest and conviction records are also discoverable under Article 39.14 of the Texas Code of Criminal Procedure. See Reed v. State, 644 S.W.2d 494, 498-99 (Tex. App.--Corpus Christi 1982, pet. ref'd).

7. That the evidence is not privileged is proven by the fact that the State has checked the same records for evidence of the record of ZENA COLLINS STEPHENS record of arrest and conviction. Even if it were privileged, the privilege would have to give way to Frederick Feaster's right to confront and cross-examine witnesses.

8. This evidence is not work product of the State.

9. ZENA COLLINS STEPHENS does not have access to the information sought, unless this Court orders the State to disclose, as requested.

10. ZENA COLLINS STEPHENS requests an evidentiary hearing at which it can be established that the records sought exist and are in possession of the State and are otherwise discoverable. See Smith v. State, 721 S.W.2d 844, 851 (Tex. Crim. App. 1986); Reed v. State, 644 S.W.2d 494, 497-99 (Tex. App.--Corpus Christi 1982, pet. ref'd).

11. ZENA COLLINS STEPHENS requests that the arrest and conviction records are disclosed no later than 30 days prior to trial.

12. If this Court overrules the motion of ZENA COLLINS STEPHENS for discovery, we request the Court to order the State to produce the arrest and conviction records for an *in camera* review, to determine their discoverability. If the Court persists in not ordering discovery, we ask that the records be made a part of the appellate record in this case, if there is an appeal.

**WHEREFORE, PREMISES CONSIDERED,** ZENA COLLINS STEPHENS prays that this Honorable Court order the State to disclose the arrest and conviction records of all its witnesses.

Respectfully submitted,

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ATTORNEY FOR DEFENDANT  
DEFENDANT: ZENA COLLINS STEPHENS

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of a foregoing pleading has been served on the District Attorney's Office, CHAMBERS COUNTY, TEXAS , in accordance with applicable rules of procedure, on Friday, October 26, 2018.

/S/Russell Wilson II  
Russell Wilson II